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Canada, Privileges and Elections,
Standing Committee on, 1955

HOUSE OF COMMONS

Second Session—Twenty-second Parliament

1955

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STANDING COMMITTEE

ON

PRIVILEGES AND ELECTIONS

Chairman: G. Roy McWILLIAM, Esq.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 7



MONDAY, MARCH 28, 1955

CANADA ELECTIONS ACT

WITNESS:

Mr. Nelson J. Castonguay, Chief Electoral Officer.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1955.

STANDING COMMITTEE
ON
PRIVILEGES AND ELECTIONS

Chairman: G. Roy McWilliam, Esq., and
Messrs.

Bourque
Bryson
Cardin
Cavers
Churchill
Dechene
Dickey
Ellis
Fraser (*Peterborough*)
Hansell

Harrison
Hallingworth
Leboe
Lefrançois
MacDougall
MacKenzie
McWilliam
Meunier
Nowlan
Pallett

Perron
Pouliot
Power (*St. John's West*)
Richard (*Ottawa East*)
Robinson (*Bruce*)
Viau
Vincent
White (*Waterloo South*)
Zaplitny

Members, 29.

Quorum, 10.

Antoine Chassé,
Clerk of the Committee.

ORDER OF REFERENCE

FRIDAY, March 25, 1955.

Ordered,—That the name of Mr. Power (*St. John's West*) be substituted for that of Mr. Carter on the said Committee.

Attest.

LEON J. RAYMOND,
Clerk of the House.

MINUTES OF PROCEEDINGS

House of Commons, Room Sixteen,

MONDAY, March 28, 1955.

The Standing Committee on Privileges and Election met at 3.30 o'clock p.m. The Chairman, Mr. G. Roy McWilliam, presided.

Members present: Messrs. Dickey, Ellis, Hansell, Harrison, Leboe, Lefrançois, MacDougall, MacKenzie, McWilliam, Nowlan, Pouliot, Power (*St. John's West*), Richard (*Ottawa East*), Robinson (*Bruce*), White (*Waterloo South*), and Zaplitny.

In attendance: Mr. Nelson J. Castonguay, Chief Electoral Officer, and Mr. E. A. Anglin, Q.C., Assistant Chief Electoral Officer; Captain J. P. Dennis, R.C.N., Deputy Judge Advocate general.

The Committee resumed the section by section study of the **Elections Act**, and dealt with the amendments suggested by the Chief Electoral Officer and other amendments, also, representations made from various sources.

Mr. Castonguay was called and was questioned on the various sections under study.

On Section 34

After some discussion thereon, the said section was stood over to allow the Chief Electoral Officer to prepare an amendment to Subsection (4) thereof, suggested by Mr. Nowlan.

Sections 35 to 44 inclusive were severally studied and it was agreed that all of them remain unchanged.

The Chairman extended the Committee's greetings to Mr. Pouliot on the occasion of the latter's birthday for which Mr. Pouliot expressed his thanks.

On Section 45

Mr. Robinson (*Bruce*) moved, seconded by Mr. Nowlan, the following resolution:

Whereas there are many people in Canada, who, on account of the type of work in which they are engaged, cannot conveniently vote at either the advance poll or at the regular poll, therefore, this Committee endorses the principle of voting by proxy for mariners who cannot attend a poll and do hereby recommend such an amendment to the Canada Elections Act.

After some debate thereon, and the question having been put on the said proposed resolution of Mr. Robinson, it was, on a show of hands, resolved in the negative on the following division: Yeas, 4; Nays, 7.

Representations in respect to Section 45 from the following were considered by the Committee, namely: Mr. Egan Chambers, Mount Royal, Quebec; Manitoba Summer School, University of Manitoba; Summer Session Students' Association of the University of British Columbia; His Honour Judge Forsyth, Toronto, Ontario; Mr. Maurice C. Punshon, Toronto, Ontario; His Honour

Judge Morley, Owen Sound, Ontario; Mr. T. C. Anderson, Canadian National Steamships; United-Automobile-Aircraft-Agricultural Implement Workers of America, (UAW-CIO) Local 439, Toronto, Ontario; Provincial Normal School, Tuxedo, Manitoba; Mr. F. H. Tanner, East Gore, N.S.; Mr. Graham P. Smith, Calgary, Alberta; Mr. A. A. Meadows, Guelph, Ontario; CCL Political Action Committee, Toronto, Ont.; J. P. Doherty, Provost, Alta.

It was agreed that the said section remain unchanged.

Mr. Zaplitny gave notice that when Section 94 of the said Act is reached he would move the following resolution:

That the privilege of voting at an advance poll be extended to include any qualified voter who completes a declaration to the effect that he will be unable to vote on polling day in the polling division in which he ordinarily resides.

Sections 46, 47 and 48 were under study and it was agreed that they remain unchanged.

On Section 49

A letter from Mr. J. P. Doherty of Provost, Alberta, was under consideration by the Committee.

Some discussion took place on the said section.

Whereafter, on motion of Mr. Ellis,

Resolved,—That the Committee recommend that Section 49 be amended by deleting the word "eight", where it appears in the 4th and last lines of subsection (4) thereof, and substituting therefor the word "two".

It was agreed that the said section otherwise remain unchanged.

On Section 50

A letter from Judge Forsyth, in part dealing with the said section, was considered by the Committee.

And the discussion continuing thereon, study of the said section was postponed to the next sitting.

At 5.30 o'clock p.m., the Committee adjourned to meet again at 10.30 o'clock a.m. on the following day.

Antoine Chassé,
Clerk of the Committee.

EVIDENCE

MARCH 28, 1955

3.30 p.m.

The CHAIRMAN: Gentlemen, we have a quorum, and we will proceed.

Mr. Nelson J. Castonguay, Chief Electoral Officer, recalled.

The CHAIRMAN: Section 34, "Agents at the Polls".

Mr. HANSELL: Mr. Chairman, I am sorry that I was unable to be here at the last few meetings, but I should like to speak on this section, "Agents at the Polls". I do not know if my remarks are particularly pertinent to this section, as I only heard the title of it, but I may as well say what I have to say here. I am wondering if the instructions are sufficiently clear to the deputy returning officers with respect to the availability of the ballots to be seen by the agents at the poll while they are being counted. I think the intention of the instructions is that the agents at the poll are in reality scrutineers and should be able to examine to their satisfaction what is going on. Now, I am told that in some places the deputy returning officer does not open the ballot and place it before the agents where they can see it. I am wondering if Mr. Castonguay could tell us about that?

The WITNESS: Paragraph 45 of the instructions for deputy returning officers deals with this matter. You have not a copy of this but I shall read it to you, and I think you will find it is sufficiently clear. It reads:

45. Counting the Votes.—The procedure for counting the votes should be as follows:—

(1) The ballot box will be opened and its contents placed on a table.

(2) The ballot papers will be unfolded successively by the deputy returning officer, who will examine each and verify his initials on the back. He will call out the name of the candidate for whom each ballot paper has been marked so as to permit any person present to keep his own score on the tally sheet (Form 74). The poll clerk will keep the score whether or not the others do so. The examination of the ballot papers must be so conducted as to permit every person present, if he so desires, to see both the mark on the face of the ballot papers and the initials of the deputy returning officer on the back. During the counting of the votes, the ballot papers must be handled exclusively by the deputy returning officer. The ballot papers marked for each candidate will be kept apart.

There is more, if you wish me to read it.

Mr. HANSELL: It appears that the reading of the instructions should be quite clear, but I have been told from more than one source and one of my own agents complained—it did not make any difference in the long run as I won that poll, but he did complain—that he did not actually see the ballots as they were placed in the various piles under the names of the candidates and that when he attempted to look at them he was brushed aside and a little argument ensued. The deputy returning officer said that when he was counting them it was not necessary that he should see them. Now, as you read the instructions there I think it might indicate that a scrutineer or an agent, as he is called, might be required to say, "Would you mind if I should see that particular one?"

Now, agents do not do that. They do not look at a particular one. It seems to me that they should be spread out so that all can see them.

Mr. ZAPLITNY: Is there any particular reason why that provision is in there, that they only handle the ballots at the time of the counting? I am thinking of the physical difficulty of everyone present being able to see the ballots. For example, if there were, say, five candidates running, each one having a poll agent, plus the clerk, plus the D.R.O., the seating arrangements would be more difficult. It would be difficult to have a seating arrangement under which everyone could see the document. If it were permissible for the D.R.O. to pass the ballot around, then that would overcome the difficulty.

The WITNESS: I do not see how you can take the responsibility for custody of the ballot papers away from the deputy returning officer. If there are five candidates, and there are as many piles of ballots, it is very hard for a deputy returning officer to keep track of what ballot papers have gone out and which ones have been returned.

Mr. MACDOUGALL: Hear, hear!

The WITNESS: It would seem to me that at the count, when he does examine these ballot papers, everybody can examine them and he puts them in the pile for whoever it is marked and he can show it to each agent as he unfolds each one. I think that is the most orderly way to do it. Then they count the ballots afterwards. First he counts the spoilt ballot papers and then the number of unused ballot papers he has. The total of those two, plus what he finds in the ballot box, must add up to the number of ballot papers supplied to him. The unused ballot papers, the spoiled ballot papers, and the ballot papers in the box, must correspond to the number of ballot papers supplied to him. There is a good deal of accounting to do. When he empties the box on the table he shows each ballot to all the candidates' agents present, rather than pass them all around. If there are five candidates there, there may be ten agents, and I do not see how he could possibly control the ballot papers if everyone was able to handle them.

Mr. LEFRANÇOIS: Are we discussing article 34?

The CHAIRMAN: Yes, section 34, "Agents at the Polls".

Mr. HANSELL: Are we in order?

The CHAIRMAN: It could be discussed under section 50, "Counting and Reporting the Votes". I think that Mr. Hansell brought this up in regard to the agents at the polls.

Mr. HANSELL: I did not have a chance to look through this. If we discuss it now we shall not discuss it later. So, as far as time is concerned it may not make much difference. I do not quite agree with Mr. Zaplitny there, for another reason, that you cannot have more than the deputy returning officer actually handling the ballot.

Mr. MACDOUGALL: Hear, hear!

Mr. HANSELL: Because the more you handle the ballots, the more marks it gets on it, and it is conceivable that ballots might be spoiled in the handling. It might have an effect should there be a recount before a judge. Personally I do not think that there is anything wrong with the regulations, but perhaps all agents are not of the same mental calibre and do not read things, and neither are all deputy returning officers. But it is very easy for a deputy returning officer to pull out a ballot and say, "Smith", when it is Jones, and "Smith" when it is something else, if the agents do not see it. If there were perhaps another little sentence put in there—

The WITNESS: There are about six or seven paragraphs dealing with the actual counting; if you would like me to read them all, I will. No one can infer from any of the instructions in these paragraphs that an agent cannot examine ballot papers.

Mr. HANSELL: I understand that they could insist on looking at one which they thought was dubious and they might be able to press the point.

By Mr. Nowlan:

Q. It all depends on the calibre of the agent. I know one man who has been a deputy returning officer since the year one. He might say to Mr. Hansell's agent, "You sit there", and to my agent, "You sit there", and to somebody else's agent, "You sit there", and they do sit there. But, of course, when it comes to the counting of the ballots, they cannot see them and one of them has to be definite enough to look over his shoulder. If the D.R.O. tells him to sit down, he can tell him to jump in the lake. That is the only way it can be done. In that connection, at the last meeting the electoral officer gave us the reason for sub-section 4. I am not particularly complaining about it. It says that an agent may absent himself, and return to the polling station at any time before one hour previous to the close of the poll. You were speaking of central polling officers. You may have ten in one big room. I know of one place where there are eight polls in one building, and we can have one good agent who is there all day, but if the polls close at six o'clock you have to have two agents, one to check the count and one to look at the poll. I would think it would be perfectly reasonable to amend that section so that the second agent should arrive prior to the closing of the polls. As this reads, he may get there at five minutes after five. The presiding officer, if he wishes, will say that he will not accept his credentials and that he has no right there, and he has to stay around for fifty-five minutes before the poll closes. His only purpose there is to help to count the polls. I would suggest that that one hour is a rather unnecessary restriction. Perhaps it could be amended. If the D.R.O. is perfectly honest, there is no reason for having two sitting there until it come to the checking. At the last election the presiding officer refused to accept the credentials of an agent because he came in at a quarter to six to help check the polls, and he would not let him see them. I would suggest that consideration be given to taking out that hour.—A. I agree with Mr. Nowlan on this matter. At the last general election many problems arose from the interpretation of this section, because many candidates were able to arrange for agents to be at the polls after working hours but they were not able to act, because they were not able to be there an hour before the close of the poll. This sub-section 4, I think, gives us more trouble than any I know of. I did not want to recommend anything there because it did not come within my province to do so. From what I gather from the number of rulings I had to give on this subsection, agents are not as easy to get as they were in the past.

Q. You are telling us?—A. Candidates seem able to arrange to have somebody come to work after working hours. I am in the hands of the committee as to this matter, but I would say that this subsection should be amended.

By Mr. Power (St. John's West):

Q. Apparently a brand new agent can come half an hour before the polls close, but a man who has gone out cannot come back?—A. That is the difficulty, because my predecessors gave rulings that a new agent might not come into the poll after 5 p.m. He is appointed to be there on that day. He is appointed from the time that the polls open at 8.00 a.m. until 6.00 p.m., and my predecessors have interpreted this subsection to mean that a new agent arriving

after five o'clock cannot be allowed in the poll. That is the interpretation that has been placed on the subsection, and it has given rise to a great deal of difficulty.

Q. Though it is capable of the other interpretation?—A. It is capable of the other interpretation.

An Hon. MEMBER: Would the Chief Electoral Officer recommend the elimination of subsection (4)?

The CHAIRMAN: I think that maybe the committee ought to do that.

The WITNESS: It is in the hands of the committee, but I think it should be amended.

Mr. LEFRANÇOIS: There is always a rush on the last hour.

Mr. NOWLAN: I think it was put in there because there is a rush after six. There is nothing to prevent him coming in just at six, and after the poll is closed he could file his paper. He cannot be interfering with the polling officer at the rush hour, but as long as he comes in at six o'clock—

Mr. ELLIS: They might be busy at the poll at five o'clock. The rush is from four o'clock to six o'clock, and you might find that a deputy returning officer is as busy at five o'clock as he is at five-thirty or a quarter to six. So I don't think that consideration should be allowed to stand in the way of repealing this subsection.

Mr. NOWLAN: We had a discussion the other day about discussing matters before they are moved. So I would move that the words, "before one hour" in subsection (4) be struck out. That would enable the agent to leave if he wanted to. He may have to go to the bank or do something else. If we struck out the whole section, he would not be able to leave. I suppose that that would still not provide for a new one coming in?

The WITNESS: As long as he is in the poll before six.

Mr. MACDOUGALL: Would this overcome the objection? Possibly this is what Mr. Nowlan had in mind—if he changed it to read that the candidates may absent themselves from and return to the polling station at any time, and omit "before one hour previous to the close of the poll". Would that meet your objection?

The WITNESS: There is one objection which I have to that. What happens to the agent who comes in the poll at five minutes or two minutes after six o'clock, for instance? I have a suggestion to make. Why not insert, "during the hours of polling"? Then he may absent himself at any time during the hours of polling, but he must be present at six, because you would run into all kinds of problems if a new agent should be permitted to enter the poll after six o'clock.

Mr. NOWLAN: He cannot come in after six, that is certain. Once the door is locked, he cannot come in.

The CHAIRMAN: Would the committee agree that we have the Chief Electoral Officer draft something to take care of that.

Mr. NOWLAN: I would move that the Chief Electoral Officer draft an amendment to subsection (4) to meet the objections expressed this afternoon.

The CHAIRMAN: Is that agreed?

Agreed.

Section 34. Is there no change except the amendment suggested?

Agreed.

Section 35.

No change.

Section 36, "Proceedings at the Poll".

No change.

Mr. NOWLAN: Is that carried out? It refers again to the instructions to which Mr. Hansell referred a moment ago. I think that we have all had experience with D.R.O.'s who probably initial some ballots in the morning and then run out of them. When a voter comes in, the D.R.O. proceeds to put his initials on a ballot and hands it to him, and the voter says, "This D.R.O. is marking that vote so that he will recognize my ballot when it comes." It scares the wits out of him. My experience is that D.R.O.'s do not mark sufficient ballots before the opening of a poll. Certainly a voter is not going to be happy to see the D.R.O. scribbling his initials on it.

The CHAIRMAN: I shall ask Mr. Castonguay to read the instructions. I think that this is due to the D.R.O.'s not reading the instructions.

The WITNESS: Paragraph 14 of Instructions for Deputy Returning Officers at Ordinary Polls reads as follows:

14. Initialling Ballot Papers.—Before the opening of the poll, on polling day, the deputy returning officer will, at the polling station and in full view of such of the candidates or their agents or the electors representing candidates as are present, affix uniformly his initials in the space provided for that purpose on the back of every ballot paper supplied to him by the returning officer. The initials of the deputy returning officer will be affixed with a black lead pencil. For the purpose of such initialling, the ballot papers will not be detached from the books in which such ballot papers have been bound or stitched. During the hours of voting, special care must be taken by the deputy returning officer to see that no ballot paper is handed to an elector unless it has been duly initialled.

Mr. NOWLAN: I suggest then that those instructions have been disregarded in that respect. Perhaps we could make it more emphatic another time.

Mr. MACKENZIE: We might run out of ballots. That occasionally happens.

Mr. NOWLAN: The Act says that he should initial all of them.

Mr. MACKENZIE: But supposing he has to initial them after he came.

The CHAIRMAN: Section 37? "Who may vote and where".

No change.

By Mr. Ellis:

Q. Have there been many complaints received from urban constituencies regarding the opening of closed lists? I realize that there is provision for those who are not at home when the enumerator calls; but there have been a number of instances reported to me of people who, through circumstances of their being out of town working—perhaps not being too well known in the district—find themselves arriving back in town a day or so before the election and not being able to exercise their franchise?—A. I am afraid I cannot answer you authoritatively in so far as the number of complaints that have been received. Returning officers probably have received more than I have. Certainly we received some during the general election, complaints from electors either over the phone or through letters, saying that their names had been omitted from the list. But I would say that with 50 per cent of the complaints it was a question of the electors not taking steps themselves to see that their names were on the list. They may offer as an excuse that time did not permit them to take such steps and appear before the revising officer. But they do not have to do it themselves. They can get an agent to do it for them.

I did not receive many complaints, and I do not think that the ones I did receive would amount to more than 100 letters. Returning officers, I am sure, in the enumeration, in collecting $8\frac{1}{2}$ million names in six days, enumerators are bound to omit some names. But that is a general question on which I cannot give you any authoritative information.

Q. I found that at the average poll there were a number of people who would have normally been entitled to vote at provincial elections, who arrived at the poll and through their lack of knowledge of procedure found that they were not on the list and were not entitled to vote. The difficulty was due to the fact that in provincial elections they can be sworn and can vote within a city. But in federal elections, when they arrive at a polling station and they find that they are not able to vote, it is because their names are not on the list.

I can understand the reason for the closed list in the rural constituencies; but I wonder if it is necessary to that extent. Many people are entitled to vote under the closed list system. On the other hand they feel that they should be able to vote under the open system, that is, being able to be sworn in at the poll and to vote, if they are otherwise entitled to vote. I thought the chief electoral officer might have received some communications from his returning officers throughout the country, as to just how frequently complaints were received on that score.—A. I have never received a request to have an open list in a city, from a returning officer, a candidate, or anyone else, and I do not think that my predecessor ever has received one either.

The CHAIRMAN: Section 37? "Who may vote and where."

No change.

Mr. HANSELL: That does not affect the fact that anybody is deprived of his franchise. He can be voted in?

The CHAIRMAN: Section 37. "Who may vote and where."?

No change.

I would like at this stage, on behalf of the committee, to extend to Mr. Pouliot our greetings since this is his birthday.

Mr. POULIOT: Thank you very much, Mr. Chairman and gentlemen.

The CHAIRMAN: Section 38. "Penalty for wrongfully inducing person to vote."?

No change.

Section 39. "Oath of Elector"?

No change.

Section 40. "Improper varying of oath"?

No change.

Section 41. "Name, address and occupation corresponding closely in another."?

No change.

Section 42. "Entries in poll book"?

No change.

Section 43. "Issue of transfer certificates to agents of candidates."?

No change.

Section 44. "Secrecy during and after poll."?

No change.

Section 45. "Delivery of ballot paper to elector."?

First of all, we have received several letters which you can see in the Appendix to No. 1 printed report of the proceedings of the committee.

The WITNESS: Not all but most letters advocate the adoption of a form of absentee voting, or some method to permit people to vote who, for valid reasons, are unable to be in their polling division on polling day and consequently are not able to cast their vote.

They nearly all recommend absentee voting; there are two requests for proxy voting, and all the rest are for absentee voting. They suggest that some method should be devised to take the vote of persons who are absent on voting day.

By Mr. Pouliot:

Q. Proxy voting? There is no proxy voting at the present time.—A. Merely for prisoners of war.

Q. Prisoners of war only. I am not strong for that. There are three dates allowed to permit commercial travellers, sailors, and railway men to vote at advanced polls. There are three days for that, besides the provision for prisoners of war. There are no others. But at the present time the prisoners of war must be very few. Do you know how many there are?—A. At the last general election, eighteen voted.

Q. Well, there must be very few at the present time. They have all been returned. That section regarding proxy voting is not in operation now.—A. No.

Q. Because it is spent; in legal language, it is spent. Therefore although there was provision made for prisoners of war at the last election, that provision is practically non-existent now. It is only theoretical.—A. Yes, theoretical.

Q. Why should we start to give proxy voting? I cannot understand it. The members of the committee are free to decide as they wish, but I think it is a bad method of voting. For me there should be a poll which was organized as an advance poll to permit electors to vote in this country. I was not on the committee when proxy voting was passed. My attention was not brought to it. There are so many things to do, it was impossible; but I am definitely opposed to proxy voting. That is the opinion of one member. The other members are free to decide on what they wish.

The CHAIRMAN: Mr. Robinson gave notice of motion at our last meeting.

Mr. ROBINSON (*Bruce*): Mr. Chairman, once more I wish to express many happy returns to the member from Temiscouata.

Mr. POULIOT: Thank you.

Mr. ROBINSON (*Bruce*): I also would like to say that he has had great experience in elections, but we are never too old to pick up a few odds and ends. For instance, he mentioned advanced polls on three days. Apparently he neglected to remember the mariner who is not able to take advantage of them because he may be away. They usually leave home in March and probably do not return until December in ninety per cent of cases unless they take a chance to run home on some Sunday to meet their wives.

I have had a notice of motion distributed. I have struck out three words of the motion which I intend to move. Those three words are on the third last line, and the first one. I have done so for two reasons, the first being that I have had no solicitation from people other than mariners asking for advanced voting. Consequently I quite realize that it would make the motion more complicated. Therefore, to further the discussion of this motion I would like to move, seconded by Mr. Nowlan, that;

Whereas there are many people in Canada, who, on account of the type of work in which they are engaged, cannot conveniently vote at either the advance poll or at the regular poll, therefore, this committee

endorses the principle of voting by proxy for mariners who cannot attend a poll and do hereby recommend such an amendment to the Canada Elections Act.

I might say, Mr. Chairman, that this is a very live issue up in our district. As I stated the other day, it is nothing new and at provincial elections it was not new either.

I would like to refer you to page 23 of our minutes of proceedings number 1, dated March 8. There is a letter there from Judge G. W. Morley from the vicinity of my district, and he explains the results they had with proxy voting at a certain election in that district.

There is probably a feeling against having something new in the Elections Act, but my interpretation of the Elections Act is to try to entitle people to exercise their franchise. I think we should lean over backwards to give people a chance to vote and not to pull them away from doing so. I cannot enlarge on what I have said.

The province of Ontario has a proxy vote. What percentage of votes is cast thereby I do not know; but I would not be surprised if the percentage is as large as that of the general voting, because the general voting is not in any way near to one hundred per cent. I take much pleasure in moving that motion.

The CHAIRMAN: Is the committee ready for the question: All those in favour will please raise their right hand?—4.

The CHAIRMAN: All those contrary, those against?—7.

The CHAIRMAN: I declare the motion lost.

Now, with respect to these letters which are referred to under section 45 having to do with absentee voting—

Mr. HANSELL: What page are the letters on?

The CHAIRMAN: They are items 6, 7, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 27 of Appendix "A" to No. 1 of the printed report of proceedings.

Mr. HANSELL: What does the Chief Electoral Officer think of them? I think there is some merit in them. I notice that one of them comes from a school teacher. It is an aggravating situation when a school teacher goes away in the summer holidays and finds that an election is held. I would like to make a suggestion later in respect to advance polls for rural areas. It appears to me that they could be extended a little bit.

By Mr. Pouliot:

Q. If you will permit me, Mr. Hansell, what is the date before the beginning of the election and the election itself, and the issuance of the writ?—A. A period of approximately 60 days.

Q. And those who live in an electoral district 60 days prior to the issuance of the writ have the right to be on the list? The issuance of the writ establishes the residence of the elector. That is it?—A. That is it. The elector is entitled to vote in the electoral district in which he resides on the date of the issue of the writ.

Q. In order to be on the list it is unnecessary to make personal application. The parents may make that application for their children. They would know where they are, if they are at school, or enjoying holidays, or if they are not enjoying holidays or are not at school 60 days after the issuance of the writ which is publicized in all papers?—A. I think those letters are not complaints from people who are on holidays. I think they are from people who, after the writ issues, have to attend summer schools and leave their place of ordinary residence, let us say, to go to Winnipeg to attend summer school; or people

who because of their occupation have to leave the constituency and may, let us say, go to Halifax or some place like that on business. That is the nature of most of the representations.

But if I might be permitted, I would suggest that the committee cannot consider the adoption of absentee voting unless the committee consider first the adoption of a permanent list.

Wherever there is an absentee voting system in the Commonwealth, there is a permanent list to provide normal safeguards to ensure that the ballots which come back to the constituency from outside the constituency are cast by bona fide electors of the said constituency.

I return again to the point that the check which is made is of the signature of the elector on his original application to have his name entered on the permanent list against the signature on the postal envelope. It may be safely said that in six days it will be impossible for our enumerators to collect 8½ million signatures of electors. The way the enumeration is done now, the enumerators get information from the best sources available. They do not have to sight or interview each elector. If they did, they could not possibly perform the enumeration in six days. If the enumerators are required to collect the signature of each elector, I would submit that the enumeration would require a period of more than sixty days instead of the present six days. These signatures would be necessary to enable the returning officer to check the signature on the postal envelope against the signature on the elector's original application for registration. I do not know of any other practical method by which you can provide adequate and normal safeguards to prevent votes from coming into a constituency which have no reason to be cast in such a constituency. Every system that I have studied in the Commonwealth which has postal or absentee voting facilities is tied in with a permanent list. You cannot get away from it if you want to provide the normal safeguards. Allowing somebody to vote without normal safeguards leaves the door open to many abuses. I am not saying that there would be abuses, but I would leave that to the members' judgment. I would put it simply this way. If on official addition of the vote the candidates arrive in the returning officer's office and found 1,500 postal or absentee ballots on his desk still to be counted, I am sure that every candidate in that room would want to know whether those absentee or postal votes come from electors who are qualified to vote in the constituency. There is no means of knowing that unless you have something to check the signature on the postal envelope against the signature of the elector that is made on his original application for registration. That may not be an adequate safeguard in itself, but it is accepted as such in countries where they have postal and absentee voting systems. But the difficulty in our obtaining signatures is that we are only given a period of sixty days between the issue of the writ and polling day, and I submit that it would be a physical impossibility to obtain eight and a half million signatures in that period. At the next election it would be necessary to obtain nine million elector's signatures. It would not only be necessary to obtain them but to process them afterwards and have the list printed in a period of sixty days. I would submit that even if the time were six or seven weeks for enumeration only we would never get all the signatures of the electors so that you would have no basis to provide all such facilities. I do not see how you can get away from the permanent list if you are to provide facilities for people who are absent from their polling division and also provide proper safeguards.

MR. POULIOT: What is very helpful is that most electors are well-known in the county of their residence. It does not apply to absentee voters, but newcomers are very little known in the places where they live. I hope that you understand me. If an elector has been in constituency A and goes to

constituency Z he is not as well known in constituency Z as he is known in his own constituency, and therefore it is much easier to have somebody else vote in his stead. That is my understanding. I may be wrong.

By Mr. Hansell:

Q. The particular point which I had in mind, referring to these letters, was that in the rural areas we do not have any advance polls unless the particular situation requires it, where there may be a town of, say, three or four thousand people.—A. Five hundred. An incorporated city, town or village of five hundred population.

Q. There must be more than that in mine.—A. Representations must be made to me for the establishment of an advance poll, and I am permitted by the law to authorize the establishment of an advance poll upon representation, in any incorporated town or city or village of five hundred population or more.

Q. That is part of my problem. Here is the problem. Say that there is a community with a teaching staff of twenty-five teachers. As soon as school is out, twenty of them go away. There is an election held after they go away. Although their names conceivably could be on the list, those twenty teachers are unable to vote. Is there a way by which a situation of that kind may be remedied? That is not just one community; it is all over the country. If an election should happen to be called, and the polling day occurs on a holiday.—A. I trust that the members of the committee will not feel that I have a one-track mind on this subject, but the basis for providing these facilities is in my opinion a permanent list. I do not know of any other method which can provide such facilities with normal safeguards. The facilities can be provided without safeguards under our Act, but I should not like to administer it if this were done.

Mr. HANSELL: That is true. The only solution, then, is that there be more advance polls.

Mr. ZAPLITNY: I have a motion which I should like to make, with regard to advance polls. As I read the Act it would require amendments to sections 94 and 95, and possibly 96 and 97. We will not reach them for a while. If the committee will agree, I should like to give notice of this motion now. I shall have typed copies circulated among the members, and we can take it up at another meeting.

The CHAIRMAN: That is agreeable.

Mr. ZAPLITNY: With the permission of the chair, then, my motion will be as follows—this may not be the exact wording:

“That the privilege of voting at an advance poll be extended to include any qualified voter who completes a declaration to the effect that he will be unable to vote on polling day in the polling division in which he ordinarily resides”. In effect that admittedly would not meet all of the problems which we have just been discussing with regard to absentee voting, but it would allow a much larger number of persons to vote than at present is the case at advance polls. I am not going to argue the motion now. I just want to explain it. If the principle were adopted and the necessary amendments made to the section, I would believe that it would have a beneficial effect. I shall leave it at that and circulate the wording of my motion at a later meeting.

Mr. MACDOUGALL: Would it be permissible now to comment on the notice of motion?

The CHAIRMAN: I think that we had better take it up when we come to section 94 and 95. I think that we should finish with absentee voting now. Has any other member any comments to make on absentee voting?

By Mr. Power (St. John's West):

Q. Would the Chief Electoral Officer be able to tell us whether any provinces have at the present time absentee voting and the safeguards which they have?—A. The provinces of British Columbia and Saskatchewan have absentee voting. The Province of British Columbia has a permanent list and the normal safeguards which I mentioned. The Province of Saskatchewan has not a permanent list. Generally speaking, they compile the list in the same manner as we do, and I believe that the provisions of the Act leaves the onus mostly on the candidate to prove that these absentee votes are not from qualified electors. There is no check on signatures. They merely check the names on the list, and the candidate may object to the absentee ballots received. I have the Saskatchewan Act here if you would like me to read these absentee voting provisions.

Q. In the Saskatchewan case, if somebody writes in to the returning officer and says, "I am Mr. So and So, of Such and Such a Street, and I am marking my ballot for Mr. X", as long as that name is on the list, there is no other requirement?—A. There is a short provision here, if I may read it to the committee:

83. Power of absentee voter to vote.

(1) A voter who is absent on polling day from the constituency in which he is entitled to vote may vote for a candidate in the said constituency by casting his ballot in the constituency where he is on the polling day:

Provided that this subsection shall not apply in the case of a by-election or a deferred election.

(2) A voter who is absent on polling day from the polling division in which he is entitled to vote may cast his ballot in another polling division in the same constituency:

Provided that if the polling division in which he is entitled to vote is in a city or town he shall not be entitled to cast his ballot in another polling division within the city or town unless he is a deputy returning officer, a poll clerk or an agent of a candidate and is employed in a polling division other than the polling division in which he is entitled to vote.

That is from the Saskatchewan Election Act. The counting comes under section 89:—

5. A voter who seeks to vote under the authority of subsection (1) of section 83 shall be given a special absentee ballot paper (form 12), initialed and numbered in the manner mentioned in section 86, and he shall forthwith proceed into the room or compartment provided for the purpose and, with the black lead pencil provided, mark his ballot paper by writing in the space provided the name or names or the political affiliation of the candidate or candidates, as the case may require, for whom he intends to vote, and the manner in which he designates the candidate or candidates shall be immaterial if the intention of the voter is clearly indicated. The voter shall then deal with his ballot paper in the same manner as is provided by section 87 with respect to an ordinary ballot paper, and upon receiving the ballot paper the deputy returning officer shall proceed in accordance with paragraph 6 of this section;

Now, with regard to the counting, it says that the returning officer shall:

1. Open the parcel containing the absentee voters' ballot envelopes received from other returning officers and, with respect to each ballot

envelope and before opening the same, examine the oath taken and subscribed thereon, examine the poll book, the voters' list and other election documents used at the polling place at which the voter alleged in his oath he was qualified to vote and if, from such examination and any representations made to him by the candidates or their representatives, he is satisfied that the voter was entitled to vote in the constituency and that no person has in fact voted as such voter at the said polling place, he shall open the ballot envelope, remove therefrom the folded ballot and, without unfolding the ballot, deposit it in a special ballot box supplied for that purpose. If not so satisfied he shall not open the ballot envelope but shall write in ink on the back thereof the words 'unopened, subject to review on recount';

So the main requirement is that the elector take an oath and there is a check of the voters' list and the poll book, but there is no foolproof way of checking whether that envelope was really cast by the elector concerned.

By Mr. Ellis:

Q. With regard to what you said about the lack of a safeguard, is it not correct to say that the election is carried off without any great deal of difficulty? —A. I did not mean to imply that. I just meant to say that there are not all the normal safeguards for absentee votes that are normally provided. Normally a declaration would be made on the back of the envelope with the voter's signature, and they would check that with the signature on the elector's original application to be on the permanent list. As I pointed out, that may not be a conclusive proof, because it could be forged, but it still is an accepted safeguard which is used in all Commonwealth countries where they have absentee voting. There is a check of the signature on a postal ballot against the signature made by the elector on his original application for registration.

Q. We want to make it possible for as great a number of Canadian citizens as possible to vote, but while the absentee ballot might not have the safeguards that we might wish it to have, still we have to weigh one against the other. If we feel that the franchise should be extended to these people, I think that the committee should give it their earnest consideration, notwithstanding the fact that the Chief Electoral Officer has suggested that without a permanent list there are going to be possibilities of abuse, and perhaps they have been borne out by the experience in those areas where they have that system.—A. If I might add this comment, that this system may be capable of satisfactory application in the province of Saskatchewan where there are no large cities. I am not implying that these things happen in Montreal, Toronto or Vancouver and other large centres, but it is in these large centres where there may be difficulty with these absentee ballots if normal safeguards are not provided. The province of Saskatchewan has not one centre as large as any of these places, where you may have difficulty in applying the absentee voting without normal safeguards.

The CHAIRMAN: Section 45—Any change?

No change.

The CHAIRMAN: Section 46.

No change.

Section 47.

No change.

Section 48.

No change.

Section 49.

A letter has been received in connection with section 49 from Mr. J. B. Doherty. It is on page 29 of the minutes of proceedings. Do any members have any comments?

Mr. ZAPLITNY: I am wondering to what restrictions that refers?

The CHAIRMAN: Subsection 3 of section 49, which is found on page 72.

Mr. NOWLAN: I never saw the force of subsection 4. It may have had some in the old days when the barrel of rum was opened at the poll. It might have been dangerous then to wear badges and so on, but I do not think that there would be any harm in wearing a badge and coming to the poll now. Eight days is quite a long period. People place stickers on cars and so on, and some narrow-minded individual lays information about them. I have always thought it was rather a childish provision, to tell you the truth. I happen to know two or three people who were prosecuted for having a banner on their car, which they were carrying within the eight day period. The magistrate told off the informant, but there was nothing to do but convict them for it.

Mr. POULIOT: I appreciate that the purpose of that provision was to prevent prize fighting.

Mr. NOWLAN: That went on when they had the old barrel of rum, but that day has gone now.

Mr. POULIOT: Even without liquor some people are enthusiastic, and they might be eager to punch somebody's nose.

Mr. NOWLAN: That might help to create enthusiasm. Perhaps if we permitted a few fights it might add to the interest of the thing.

Mr. ELLIS: I fail to see why the eight day provision is in the Act. I can perhaps understand the reason for not having the emblems on election day or perhaps the day before, but in the interest of keeping up activity and arousing interest in the election itself, certainly the last week of the campaign should give all parties their final opportunity to get the idea across to the electors that there is an election. If the interest has not been aroused by the day before the election, no display of banners on election day is going to alter that. But I think that the eight day provision is foolish, simply because it is probably incapable of being enforced. A law that is just ignored by all and sundry is not good law.

The CHAIRMAN: You would prefer twenty-four hours?

Mr. ELLIS: On election day or the day before.

The CHAIRMAN: I think that there is a regulation under the Elections Act for forty-eight hours.

Mr. LEBOE: I think that is a good idea, to make it conform with the C.B.C. regulation.

The CHAIRMAN: It is not a C.B.C. regulation, it is under the Elections Act.

Mr. HANSELL: You could word it in the same way as subsection (3), concerning the loud speakers: "on the day immediately preceding the day of the election, and before the closing of the polls on the day of the election".

The CHAIRMAN: What is the pleasure of the committee on that? Does the committee wish to change that?

Mr. ELLIS: Mr. Chairman, I would move that the Chief Electoral Officer be asked to re-draft that subsection with a view to changing that.

The CHAIRMAN: It would not take very much time. The Chief Electoral Officer is quite ready now, so maybe we could do it right now.

Mr. ELLIS: I would strike out the words "or within eight days before such day", on line 4 of subsection 4.

Mr. POULIOT: And replace eight by two?

Mr. ELLIS: Yes, that would be alright.

The CHAIRMAN: Is the committee ready for the question; Mr. Ellis moves that section 49 be amended by striking out the word "eight" where it appears in the fourth and last lines of subsection (4) thereof and substituting therefor the word "two"?

All agreed?

Section 49? "Strangers not to enter polling districts armed." Agreed to with recommended amendment to subsection (4) thereof.

Mr. HANSELL: Excuse me, Mr. Chairman, but I would like to refer to section 49, clause 5 "liquor not to be sold or given on polling day." I would like to say what happened in one of my polls. I know that this is the wording of the paragraph:

5. No spirituous or fermented liquors or strong drinks shall be sold or given at any hotel, tavern, shop, or other place within the limits of any polling division, during the whole of the polling day at an election.

Now you will laugh at this, but in one of my polls it was a pretty hot day. They had taken their lunch with them, and the agents had been there all day. About four o'clock in the afternoon one of the agents went out and brought in a case of soft drinks. It caused quite a little furor in that poll. One of the candidates complained seriously that this man was treating favourites with soft drinks; but the soft drinks were not distributed to any voter. They were distributed to those who were working there and who were thirsty.

The CHAIRMAN: Did he object to the soft drinks? What did he want, hard liquor?

Mr. HANSELL: I do not think he wanted hard liquor. I think he was acting just "ornery".

Mr. POULIOT: Have you any suggestion to make?

Mr. HANSELL: I wondered if there was any section which just mentioned the word "drinks"? This chap said "that is drinks; that is drinks!"

Mr. MACDOUGALL: It says "strong drinks". That does not mean butter-milk.

Mr. NOWLAN: It says "or other place within the limits of any polling division, during the whole of the polling day at an election." That would cover any one who wanted to have a drink that night in order to console himself against the results of the day.

The CHAIRMAN: I think that "the whole of the polling day at an election" would end with the closing of the polls.

Mr. NOWLAN: I suppose it would.

Mr. HANSELL: Isn't there some other section which deals with treats?

Mr. ZAPLITNY: It comes under the bribery section.

Mr. ELLIS: Is there any point in having that read "or strong drinks"?

The CHAIRMAN: I am not a lawyer.

Mr. HANSELL: It would govern them serving coffee in the cafeteria.

The CHAIRMAN: Section 49 "Strangers not to enter polling districts armed"? Is it agreed to with the recommended amendment to sub-section (4)?

Mr. ZAPLITNY: There is one particular problem that I got into in my constituency. Perhaps some of you with more experience can answer it, because I have not been able to do so.

The CHAIRMAN: Under what subsection is that?

Mr. ZAPLITNY: It would come under subsection 4 having to do with "flags, ribbons, or favours, not to be furnished or worn".

The problem which arose was this: I have been unable to find any prohibition against the placing of pictures of candidates on a building where the polling is to take place, or near the entrance. As a result, we found that there have been protests about that—not from any one particular party, but from all of othem. We have found that large posters and pictures of candidates or leaders of particular parties are put on the walls right close to the entrance to the polling place where people come in to vote. Those who object claim that they are being influenced unduly by having the position of these posters right at the entrance of the polling booth.

I found that it was not done deliberately, but rather it was done accidentally. For example, if the polling place happened to be in a community hall, or a school in which a meeting had been held, perhaps ten days earlier, and posters were placed there and not taken off on election day, they would find those posters staring them in the face. Is there any prohibition against placing such posters on the premises on which voting is being held on polling day?

The WITNESS: There is no prohibition, but where complaints reach me that those posters are up in premises which we have rented for polling facilities, I have them removed. We received some complaints about that matter at the last election. I remember that at 7:30 o'clock in the morning I got a telephone call from a city, and I was told that was happening within 20 feet of a certain poll.

There is no prohibition in the Act. But where those signs, posters, or pamphlets appear on a place we have rented for polling facilities, and when a complaint is made to me or to the returning officer, we have them removed.

By Mr. Zaplitny:

Q. The returning officer at the present time would have the authority to have them removed?—A. If we rent premises for polling purposes, we have them removed.

Mr. POULIOT: A candidate cannot hypnotize any elector. You know that very well.

By Mr. Hansell:

Q. Is there not a particular section which says "within so many feet"?—A. Not in our Act.

Q. May be it is in the provincial Act. I think Mr. Zaplitny has a point there.

The CHAIRMAN: Section 49 "Strangers not to enter polling districts armed"?

Mr. HANSELL: I do not think we should leave that. I think it would be fair to all candidates if there was some regulation covering the placing of posters within a certain distance of the polling booth.

By Mr. MacKenzie:

Q. The way it stands now, it is prohibited to have posters in the polling booths.—A. Not by the law, but by the mere fact that we rent the premises for polling places. If we rent a building for a polling place, we feel that we have some control over the part of the building we are renting, and we have them removed, when we receive complaints about it, or when it is brought to the attention of the returning officers the necessary action is taken.

Mr. ZAPLITNY: I think it would be preferable if it were possible so to word the Act to bring it into conformity with what is now in effect in most of the provinces. I say "most of the provinces" but I only happen to know about our own province. In our own provincial election Act there is a specific regulation dealing with it; and I believe that in our province it says that within one hundred feet of the polling place there shall be no posters or other material urging the voter to vote for a certain candidate. It would be a safeguard which I think would meet with the wishes of every one concerned. Certainly it would make it a lot easier for the returning officer, because he would then have a specific authority under which to do away with these posters. If he is requested to remove them by one of the candidates or by his agent, another candidate may say: "where do you find the authority for that?" It has happened in my constituency. It will be difficult for the returning officer, because he may not be able to answer the question. Neither can the candidate.

So, in order to bring into the letter of the law the spirit of the law which is now being observed where possible, I would suggest that such a regulation be drawn up; and I believe personally, that without even amending the Act, the regulations themselves could instruct the returning officers to carry that out under the authority given in subsection 4 of section 49.

The CHAIRMAN: Yes.

Mr. HANSELL: I think maybe it should be in the Act.

The WITNESS: Subsection 4 of section 49 does not give to the returning officer any power. But look at subsection 6. There you will see that somebody has to lay an information.

Mr. ZAPLITNY: In that event, Mr. Chairman, it would require an amendment. Therefore, I propose that an amendment be made. I am not prepared to give the necessary wording of it, but if the committee agrees with me, we can ask the Chief Electoral Officer to draw one up.

Mr. MACDOUGALL: Is it not possible, no matter what safeguards may be written into the Elections Act, with human nature being as it is, that you are going to have certain cases where the spirit as well as the letter of the law is going to be violated? It seems to me that we can make this thing entirely too complicated. As far as my experience in elections is concerned, ever since the first world war, I have never seen any malicious contravention with respect either to posters or the peddling of soft drinks or strong drinks or what have you.

In British Columbia—I think I am correct when I say that under the provincial Act—I cannot vouch for this—I think that no posters can be posted closer than ninety feet. Someone said it was a hundred feet in Manitoba. That is close enough. Let us say it is 90 or 100 feet. You cannot, in my opinion, prevent a bunch of hooligans or zoot-suiters from going around on the street immediately in front of a polling booth and writing in chalk certain slogans which they may want.

I know that in the second to the last federal election that was done before several of the polling booths in my riding. What was done there was that one of the "joe-boys" in the poll came out and washed off the things by sluicing them with water. By and large you cannot cover everything in the Act. That is a human impossibility.

I do not think there is any particular need or requirement for putting a whole flock of additional safeguarding amendments into these various sections. Up to the present time, with all our past experience, we have not encountered anything of a particularly malicious nature in this regard. Therefore, I suggest that we do not become too technical in this matter. What has served us reasonably well in the past, I think, will continue to serve us reasonably well in the future.

By Mr. Zaplitny:

Q. I agree to a certain extent with Dr. MacDougall. I am not asking for any rigid provision to be placed in the Act. I am suggesting that the returning officer be given specific authority to act where he believes that undue influence is being used by a method of plastering posters right around the door of the polling booth.

At the present time I fail to find where such authority lies. I am informed by the Chief Electoral Officer that if a complaint is brought to his attention, then he orders that the thing be removed. But the difficulty is that such complaints are not likely to come to him until election day and I am sure that the Chief Electoral Officer will have plenty to do on election day besides listening to complaints. The returning officer could have the authority to act on his own behalf and to have such posters removed, or any signs which he believes are put up for the purpose of being an undue influence.—A. I would not like to see that power rest with the returning officer because on polling day he has already many duties to perform. If there is an amendment to be proposed, I suggest that it be put in the same way as it is in section 49. The returning officer might feel that he was duty-bound to travel around to see that there were no signs posted up in a polling place. The responsibility should not be placed upon him, and I do not think that the returning officer on that day, with all the many duties he has to perform, should have to go around all the buildings in which polls are established to see if there are any signs in the polls. It would make it awfully hard for him to perform his other duties.

Q. I am not suggesting that the returning officer be made responsible personally. Surely he could delegate that authority to his deputy returning officers who are in charge of the polling booths.

Mr. POWER (*St. John's West*): I agree with Mr. Zaplitny. I see the practical difficulty of this prohibition in the Act. Is there not punishment provided for people who do things which are forbidden? If we have such a provision, then posters should not be allowed, and a person who puts them up could be punished after trial. But here you are adding a new duty to those of the election officials, no matter who they are, be it the returning officer, the deputy returning officer, the poll clerk, or anybody else. This might be the sort of thing where someone would paint one of those offensive things on the sidewalk and it would be physically impossible for the deputy returning officer to remove it. It would have a chain reaction and other people would be doing the same thing all over the place. You see a lot of that anyway.

I have had occasions where somebody puts a poster on a telephone poll and somebody else puts an opposing poster over it, and then you have people climbing the poll right up to the top in order to get their candidate at the top. I do not think we should add to the duties which these election officials already have.

Mr. ELLIS: There should not be too much difficulty on that score because, when the poll opens in the morning, the agents of the various parties are certainly going to be on the lookout for any infractions of the regulations. I know what the situation has been in our provincial elections. Posters are not permitted. There is a natural confusion in the minds of many people between federal and provincial regulations. So, when the polls open, some of the agents are naturally concerned about certain posters being just a few yards from the entrance to the poll. Under the Act at the present time they have no authority for the removing of the offending posters. Changing this subsection of the Act would give authority to the returning officer and naturally

this would be known to the deputy returning officer, and if there is any complaint from candidates' agents when the polls open in the morning it would be a simple matter to take the offending poster down. I think that if it were made perfectly clear that it was an offence, the parties would clear up the posters. I think that the situation would be taken care of itself once the authority is provided.

Mr. MACDOUGALL: In that regard, may I add this? I am not particularly opposed to the suggestion of the hon. member for Dauphin, but I am quite sure that in my riding the candidates from the party of my good friends to the left, and also the C.C.F. and Conservatives, the candidates or the agents, make rounds in possibly all ridings. They might not cover each and every one. They go around the polls and if they see something with respect to the advertising of the opposition candidate that is contrary to the Act, they are certainly going to make sure that something is done about it, and I do not feel that it is very necessary for us to make this a part of the written instructions for deputy returning officers. Your candidates, together with their managers, or their business agents, know it is their business to be around there and I am quite sure that the opposition or government candidates, if it should be an opposition candidate, with the government's official agent or his manager or assistant manager would immediately see to it that whatever was offensive so far as the Act was concerned was removed by themselves without on this day of all days, saddling additional responsibility upon the returning officer of the constituency and also upon each and every deputy within the confines of that constituency. I am quite sure that it is not necessary. I have no fight with it, but I do not believe that the thing is necessary at this time.

Mr. ZAPLITNY: That is exactly the point. Mr. MacDougall states that it is up to the agents or the candidates to see that such posters as may be considered offensive are removed, but the point is simply this, that the D.R.O. under present regulations is not authorized to do so and cannot authorize anyone else to do so. I shall give you a personal experience. It happened in my constituency. They called at a poll on election day and an agent of a candidate opposing me is the one who complained about a poster. It so happened that it was one of my posters with my picture on it which was left up at the community hall where the voting was being taken. He complained to the D.R.O., and the D.R.O. told him that he had no authority to remove it. Finally it was brought to my attention, and I personally took it away in order to settle the dispute. But one cannot be at every poll to do that. Somebody should have the authority to settle the dispute by saying, "I authorize you to take that down". At the present time the D.R.O. cannot say that. He has no authority to authorize anyone to remove that poster, and it is open to dispute. I think it is quite unnecessary. It is merely necessary to authorize the returning officer, who may delegate his authority to the D.R.O., who may adjudicate the dispute.

Mr. LEBOE: I think that Mr. Zaplitny's remark is to the point, with regard to the whole of subsection (4) of section 49. It says: "No person shall furnish or supply any flag, ribbon, label or like favour to or for any person with intent . . .". That is an impossible situation. Nobody could prove that. It is absolutely impossible to prove that it was supplied with intent. That is a ridiculous situation. I think that the proposition mentioned by Mr. Zaplitny is far more important than the whole of subsection (4) because nobody could ever get a conviction under subsection (4), and that renders it useless.

Mr. HARRISON: I do not think that this is a major point, and there is not much difference of opinion on it. In actuality, I think that the present set-up has not worked too much to the disadvantage of anybody. Ridings are alike anywhere. Where there are not too many placards of one kind or another to deal with, when the election day comes around, they are removed from

wherever they are. In order to obviate that very situation, anybody who puts up placards for me is supplied with a long ladder so that anyone who wants to take those placards down must have the same equipment. Further, from the standpoint of experience, I do not think that this present system has worked to anybody's hardship or to anybody's advantage. I recall one poll in my riding a few elections ago where it was completely covered with posters and pictures of the hon. member for Biggar, and I do not recall him doing very well in that particular poll. This situation might quite possibly be the reverse somewhere else. I think it is a very small point as to whether we have posters there on election day or not. As far as I am concerned, anybody can paper the floor with all the posters in the riding. I do not think it will make a difference of one vote in the whole election.

The CHAIRMAN: Is section 49 agreed, except for the amendment to subsection (4), changing the period of eight days to two days?

Agreed.

Section 50: "Counting and reporting the votes."

I have a letter in connection with this section. This is item No. 8 on page 17 of the printed report of proceedings. It deals with section 50 (2) (d). Are there any comments?

Mr. ZAPLITNY: I note that this letter deals with several sections, including section 54. I have a matter I wish to raise under section 54.

Mr. DICKEY: We are on section 50.

Mr. ZAPLITNY: Do you wish to deal only with section 50 at the present time?

The CHAIRMAN: Yes.

Mr. NOWLAN: With regard to subsection (2) (d), it states that certain ballot papers shall be rejected, except that no ballot papers shall be rejected on account of any writing, number or mark placed thereon by any deputy returning officer. Of course, it is understood that marks are occasionally put on accidentally, and they should not be rejected for that. It does leave it open to an unscrupulous D.R.O.—and there are still occasional ones of that vintage—to make a mark deliberately on the ballot which serves as an identification. I think that it should specify an accidental mark. I think the Chief Electoral Officer should consider the wording of that, because it is wide open at the moment. I know of one presiding officer who puts a piece of lead underneath his thumb and when certain people come in and he wants to know how they vote, he slips that thumb across the paper and there is a mark on it. It says that no mark shall be placed thereon or it shall be rejected. It is a wide open invitation to do that. I think that the Chief Electoral Officer should tighten that up. We know what the intent is, and I have no quarrel with that intent, but I think it may be abused.

The WITNESS: The suggestion by Judge Forsyth is a little more confining in nature. His suggestion is in connection with section 50 (2) (d) which reads as follows:

This subsection gives rise to much dispute. I think it should provide that "any ballot not marked in accordance with the provisions of this Act should be rejected".

Mr. NOWLAN: If it contained a mark other than in accordance with the Act it should be rejected.

Mr. DICKEY: I think that that would open the way to a very much more serious possibility of unfairness in that it would be within the capability of

the returning officer to disfranchise anybody he wished, by surreptitiously making a mark on the ballot paper; then it would not be counted.

Mr. NOWLAN: He does the same thing now. If he puts a mark on it, it could be rejected in the first place because it contains a mark. You cannot say afterwards that the deputy returning officer put a mark on it. I know that this is done occasionally. I did not realize that that was as specific as it is. I think it should be limited to marks such as initials, for instance.

Subsection (2)(d) says that the deputy returning officer shall reject all ballot papers, but no ballot papers shall be rejected on account of any writing, number, or mark placed thereon by any deputy returning officer. I think that that is fairly loose. I think it falls to the side of the elector on this basis. "In counting the votes the deputy returning officer shall reject all ballot papers (a)... (b)... (c)... (d) upon which there is any writing or mark by which the elector could be identified, but no ballot paper shall be rejected on account of any writing, number, or mark placed thereon by any deputy returning officer."

Mr. NOWLAN: That is an exception. If there is any mark by which he can be identified—it does not apply to a mark made by the deputy returning officer.

Mr. ELLIS: Who can determine who made it?

Mr. MACDOUGALL: In that regard are we not drawing a pretty fine line of demarcation? As Mr. Nowlan mentioned, an unscrupulous deputy returning officer may put a piece of lead underneath his thumb-nail and mark the ballot. I guess that happens only in Nova Scotia.

Mr. NOWLAN: It happens in Halifax.

Mr. MACDOUGALL: Should the elector not carry the responsibility as well? When the elector goes up to get his ballot and he says that there is some type of marking on there—

Mr. NOWLAN: The elector does not see it. As he slips it in the box, the deputy returning officer puts a mark on it.

Mr. DICKEY: Mr. Nowlan is giving expert evidence.

Mr. NOWLAN: It has worked against me.

Mr. ELLIS: It is a very important matter which we are discussing now. In my own constituency there was a fuss about having little marks on the ballots. It was of very vital concern at that time, but I find it difficult to understand how one can distinguish as to whether the mark was placed on the ballot by the elector or by the D.R.O., and the mark may be so light that it might go unnoticed by the elector going into the polling booth. I think that the committee should give very close attention to this particular matter, because it may be very decisive.

Mr. NOWLAN: Could we not eliminate that last clause, which says: "upon which there is any writing or mark by which the elector could be identified"? The judge could identify that, and if the judge says it is accidental then it would not be an identification mark. It seems to me that that is a very wide interpretation to be made of any mark. It says, "any writing." Nobody would put writing or a number on the ballot paper.

The WITNESS: The judge at a recount has the same powers as a D.R.O. at the count.

Mr. NOWLAN: No matter how clear an identification it was, I suggest that, the way that section reads, it shall not be rejected if the mark was put on there. The D.R.O. could put a big X on it deliberately and it could not be rejected. Even if he had the nerve to come in after and say, "what will you do about it?", it would not affect the ballot at that moment.

Mr. MACDOUGALL: With respect to this mysterious mark on which Mr. Nowlan spoke, I think that you realize that certain electors go into the polling booth, and maybe they have and maybe they have not made up their minds—as to just what name they are going to put the “X” opposite. In that event, while they are pondering this important question, they themselves might make doodles on the ballot which are identifiable. The returning officer has no jurisdiction over that unless he does it himself.

Except that he may reject it; but it is not one of the employees of the deputy returning officer who has put that mark on there at all. And I would say, having no figures on it at all, that in all probability you will get as many marks on the part of the electors as you will have those of any unscrupulous official at the poll.

Mr. NOWLAN: Under the Act it would be automatically rejected, because that is what the section says. If you go in and doodle on it and your agent says that there is an identification mark and the deputy returning officer says yes, then you have lost your ballot. There is no doubt that is the way it is with the law as it stands now. It does not happen if the deputy returning officer does it himself; but it would, if you do it. So I say the situation is unfair.

Mr. DICKEY: It would be much more unfair if the deputy returning officer could disenfranchise a lot of people by surreptitiously making some mark on the ballot.

Mr. NOWLAN: Let us leave it as it is now. That is the way the law is now.

Mr. DICKEY: No, no.

Mr. NOWLAN: Yes, it is. The deputy returning officer can reject a ballot if there is any mark on it which is identifiable.

Mr. POWER (*St. John's West*): The mark on the ballot paper must be put there by the voter or by one of the officials. If the voter puts it there, it is so that it could be identified, and it is properly rejected. But in country places, the deputy returning officer knows pretty well how every voter in the place intends to vote. He does in my place, anyway.

Mr. NOWLAN: The chief electoral officer might consider this to see if he could suggest any amendment which would help.

The WITNESS: If you strike out the words which you suggest, there would not be any element of doubt if there was any kind of mark on it, whereas at least now it might favour the elector to a certain extent because the deputy returning officer has a certain amount of discretion and may give him the benefit of any doubt that may exist; he cannot remember out of 150 ballots whether or not he put a mark there; and the decision is more likely to be in favour of the elector. I suggest if you remove those words, “any writing or mark”, then the ballot paper will be automatically rejected.

Mr. NOWLAN: It should be. That is the whole intent of the Act.

The WITNESS: Judge Forsyth suggests that any ballot paper which is marked not in accordance with the provisions of this Act should be rejected. That is what he suggests.

Mr. NOWLAN: That is the intention of the Act.

Mr. DICKEY: The intention of the Act as now drawn is to go as far as possible to prevent the identification of any voter and to preserve the secrecy of the ballot. I think it also tries to protect the voter from losing his vote unnecessarily, either through carelessness on the part of the deputy returning officer or, as Mr. Nowlan has said, with his wide background in such matters, with the suggestion of intent.

Mr. POWER (*St. John's West*): Or by ignorance.

Mr. NOWLAN: I learned my lesson in a very good school, as Mr. Dickey will remember. I was exposed to these matters; and I suggest there is just as much if not more danger of the voter losing his right of franchise because of that than in any other way. I think at least you could say that the mark was authorized by this Act.

The WITNESS: It would follow in line with the suggestion made by Judge Forsyth, that "any ballot not marked in accordance with the provisions of this Act should be rejected."

Mr. LEBOE: That is too dangerous. I would not want to see it.

Mr. POWER (*St. John's West*): The Newfoundland Election Act has that provision, and if a ballot is improperly marked, it must be rejected.

In one very close provincial election an ignorant deputy returning officer numbered the ballot as well as the counterfoils, and he did so through ignorance.

In the outcome those ballot were properly rejected, but the rejection meant that the person or candidate who would have been elected was declared defeated; and it certainly is not right. Primarily every voter should have his vote counted if he himself has dealt with it properly. The secrecy consideration is secondary. I think that the primary consideration is that if a man votes in accordance with the Act, and his ballot is not marked improperly, then his vote should be counted even though the election officer has dealt with it in such a way that the voter could be identified. I contend that the primary consideration should be that when a man votes, his vote should count.

Mr. MACDOUGALL: There was a federal election. I cannot recall the exact year; but the late Viscount Bennett was a candidate and so also was an old friend of mine named Joe Shaw. It was in Calgary. Maybe Mr. Hansell would recall it.

Upon inspecting the ballots, there were, I think, twenty-nine perfectly clearly defined "X's" opposite the name of Joe Shaw; but they were not marked with a black lead pencil. They were marked with pen and ink. The person voting simply went into the box, took out his fountain pen, and marked his ballot in that way.

It was a very close election, and on the official count those ballots were thrown out. But when it came to the judicial count, the judge declared that the intent was perfectly clear and he allowed the twenty-nine ballots, despite the fact that they were marked in pen and ink, rather than with a black lead pencil.

I think the reason the presiding judge at the recount made that decision was because the specific intent of the elector was as plain as ABC. Even though they did not completely conform with the instructions of the returning officer, those ballots were allowed by him. I agree with what Mr. Power said, that the intent of the elector is of equal importance, I think, with the secrecy element.

Mr. NOWLAN: This Act says so specifically.

Mr. ELLIS: That was the reason I expressed some concern. I do feel that we should make every effort to count the ballots which are marked by electors, where it is perfectly obvious that they are voting for a particular candidate. I am a little concerned about ballots being rejected because of a mark which may have been placed there by the elector himself or by the deputy returning officer. I recognize that, as the Chief Electoral Officer pointed out, it is better to have the present provision where, if the deputy returning officer is prepared to admit that he himself is responsible for the mark, then the ballot will be counted. That is better than having all the ballots thrown out. I think we

should be going in the other direction, as Mr. Power pointed out, and that the secrecy provision is secondary to the intent of the voter to prefer his particular candidate. That is why I raised the question.

I feel that we should be going in the direction of leniency with regard to these voters. A great many ballots are now thrown aside when it is perfectly obvious that the voter expresses a preference for a particular candidate. I believe we should make every effort to count those ballots in dealing with them.

Mr. HANSELL: Was Judge Forsyth called in on a recount?

The WITNESS: Yes.

Mr. HANSELL: Is this letter the result of a recount?

The WITNESS: He was judge for a recount at the York-Humber election.

Mr. HANSELL: I can understand why he looks at this from the standpoint of responsibility in a recount. It is much easier to throw everything out and not to have to make a decision. But I agree that the provision should conform with the Election Act, and that we should give the elector a vote if possible.

Regarding these marks, let me tell you of an incident. I had a case where a garage man came over to vote from the other side of the street. He came over and his hands were very dirty. He picked up his ballot and took it in and marked it. He had not washed off his hands and they were greasy. The result was that the ballot was pretty dirty by the time it was returned. That was brought out at the recount and the deputy returning officer looked at it and said: "There are marks on this one, are there not?" But he was a very fair man and he simply showed it to the others and said: "What shall I do?" and they all agreed that he should count the ballot. So he counted it, even though the finger-marks on it were very easily identifiable.

The CHAIRMAN: Does the section carry without change?

Mr. NOWLAN: There is another objection, Mr. Chairman, but since it is now 5:30 perhaps we might adjourn.

The CHAIRMAN: Yes, we shall adjourn now to meet tomorrow morning at 10:30 o'clock in this room.

The committee adjourned.

